THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4374 of 2007

Dated:15.03.2007

Between:

Smt.Bairam Rajeswari.

…Petitioner

and

The Mandal Revenue Officer and another.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4374 of 2007

ORDER:

The petitioner assails the order/proceedings of the first respondent, dated 14.02.2007, whereunder the land admeasuring Ac.0.24 guntas situated at Katnepalli Village of Choppadandi Mandal in Karimnagar District was ordered to be resumed to the Government and the Mandal Revenue Inspector-II was directed to take possession of the land. The petitioner's father-in-law, Narsaiah, purchased land admeasuring Ac.0.24 guntas in Survey No.201/10 in the name of the petitioner in 1976. Her name was also recorded in the revenue records and duly implemented. When the vendors tried to interfere with the enjoyment, she filed O.S.No.113 of 1990 on the file of the Court of the District Munsif Magistrate, Karimnagar, and obtained a decree in her favour. Be that as it is, in 1994 the first respondent initiated action under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') and issued a show cause notice as to why the land should not be resumed as the petitioner is in possession of assigned land in contravention of the provisions of the Act. She submitted explanation, *inter alia*, objecting resumption on the ground that she is entitled to the benefit under Section 3(5) of the Act. Nonetheless, the Joint Collector passed orders on 29.03.1995 for resumption of the land. Feeling aggrieved by the same, the petitioner filed a Writ Petition before this Court challenging on various grounds.

The same, being W.P.No.9966 of 1995, was allowed by this Court by order dated 20.01.2000 observing that the first respondent shall conduct enquiry as contemplated under Section 3 of the Act, and pass appropriate orders.

After disposal of the Writ Petition referred to hereinabove, the Mandal Revenue Officer issued notice on 28.12.2006. The petitioner again submitted explanation on 03.01.2007 raising various grounds. She specifically urged that as she is also landless poor person, who purchased the property on 05.07.1976, she is entitled to get the benefit under Section 3(5) of the Act. The first respondent passed the impugned order ordering resumption.

Learned Counsel for the petitioner submits that though there is a burden to prove that the petitioner is a landless poor person to the benefit under Section 3(5) of the Act, unless and until an opportunity is given to the petitioner, she cannot place all the material before the authorities. According to the learned Counsel, the first respondent committed an error in not affording an opportunity to the petitioner to place all the material, even though a specific plea was taken and explanation was submitted by her. **Per contra**, the learned Assistant Government Pleader for Revenue (Assignment) placed strong reliance on the decision of this Court in **Gade Ramulu and others v. District Collector, Srikakulam**[1] and submits that the petitioner did not file any material along with the explanation to show that she is landless poor person, who purchased the property prior to coming into force of the Act, and therefore, the order of the Mandal Revenue Officer is sustainable. Secondly, he would urge that against the order of the Mandal Revenue Officer an appeal would lie under Section 4-A of the Act, and therefore, the alternative remedy bars the Writ Petition.

The legal position is not denied. When a person claims to be landless poor person, who purchased the assigned land in good faith before coming into force of the Act i.e., 21.01.1977, it is incumbent on such person to place acceptable evidence to show that he/she i) is a landless poor person; ii) purchased the assigned land in good faith and iii) continues to use the land either for cultivation or for house site for which the assignment was made. The petitioner took a specific plea in the explanation, and it appears, no material was placed. The Mandal Revenue Officer, therefore, passed orders in a routine manner without even adverting to this aspect of the manner. Nevertheless, having regard to Section 4-A of the Act, this Court is not inclined to interfere in the matter, as the petitioner has not placed any material

before this Court as well. Therefore, this Court is of considered opinion that the petitioner can prefer an appeal to the jurisdictional Revenue Divisional Officer immediately.

Learned Counsel for the petitioner submits that even before the petitioner could take necessary steps for redressal, the respondents made attempts to cut fruit bearing trees, which were raised by the petitioner. Therefore, it would be in the interest of justice to order *status quo* as on today for a period of four weeks. The petitioner is given two weeks time from the date of receipt of a copy of this order for filing the appeal before the jurisdictional Revenue Divisional Officer and also given liberty to obtain appropriate interim orders. As and when the appeal is filed, the Revenue Divisional Officer shall afford opportunity of hearing to the petitioner, permit the petitioner to produce necessary material to prove her allegation that she is in fact a landless poor person and satisfies the conditionalities in Section 3(5) of the Act, before passing appropriate orders. This exercise shall be completed within a period of two months from the date of filing of the appeal.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

15.03.2007

Note: Issue C.C by 20.03.2007.

B/o.

vs

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[1] 2003 (1) ALD 393